

OVERSIGHT OF HIGH SCHOOL ACTIVITIES

ASSOCIATION

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Duane E. Bourdeaux

LONG TITLE

General Description:

This bill modifies the State System of Public Education Code by requiring the State Board of Education to make rules governing participation in interscholastic high school activities and providing for board appeals of Utah High School Activities Association decisions.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to make rules governing participation in interscholastic high school activities;
- ▶ prohibits student recruiting for participation in interscholastic athletic activities;
- ▶ provides that an adverse decision from the Utah High School Activities Association may be appealed to an appeals panel and the State Board of Education; and
- ▶ specifies certain procedures and standards of review for the hearings.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2004.

Utah Code Sections Affected:

AMENDS:

53A-2-208, as repealed and reenacted by Chapter 119, Laws of Utah 1993



ENACTS:

53A-2-214, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-2-208** is amended to read:

53A-2-208. Rules for acceptance and rejection of applications.

(1) A local school board shall adopt rules governing acceptance and rejection of applications required under Section 53A-2-207.

(2) Standards may include:

(a) the capacity of the program, class, grade level, or school building;

(b) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;

(c) not offering a program the student requires; and

(d) willingness of prospective students to comply with district policies.

(3) (a) Standards may not include previous academic achievement, athletic or other extracurricular ability, the fact that the student requires special education services for which space is available, proficiency in the English language, or previous disciplinary proceedings, except as provided in Subsection (3)(b).

(b) A board may provide for the denial of applications from students who have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought, or have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted, endanger persons, or property, cause serious disruptions in the school, or place unreasonable burdens on school staff.

(c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

~~[(4) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.]~~

Section 2. Section **53A-2-214** is enacted to read:

53A-2-214. Residency requirements for interscholastic athletics -- Recruiting

59 **prohibited -- Appeals.**

60 (1) The State Board of Education, in accordance with Title 63, Chapter 46a, Utah
 61 Administrative Rulemaking Act and after consultation with the Utah High School Activities
 62 Association, shall establish rules regarding nonresident student participation in interscholastic
 63 competition.

64 (2) The rules under Subsection (1) shall:

65 (a) provide clear transfer rules that are subject to open enrollment and school choice
 66 principles;

67 (b) provide that a student may not lose eligibility for participation in interscholastic
 68 athletic activities if:

69 (i) a student attends the high school within that student's high school boundaries, even
 70 if that student has transferred back from another school; or

71 (ii) a student competes at any level other than varsity; ~~AND~~ AND

72 ~~AND~~ [(c) prohibit the recruiting of students to transfer or to attend a school for the purpose of
 73 ~~participating in interscholastic athletic activities in a school outside that student's high school~~
 74 ~~boundaries, including sanctions for coach violations; and]~~ ~~AND~~

75 ~~AND~~ [(c)] (c) ~~AND~~ provide that an adverse decision from the Utah High School Activities
 76 Association

77 may be appealed ~~AND~~ BY THE STUDENT ~~AND~~ to the board.

78 (3) (a) Each appeal to the board shall be filed within 30 days after the date the Utah
 79 High School Activities Association issues a decision.

80 (b) The board shall appoint a panel of seven voting members to hear appeals as
 81 follows:

82 (i) at least two panel members shall be parents of high school students;

83 (ii) in addition to the seven voting members, two high school students shall be
 84 nonvoting panel members; and

85 (iii) each panel member shall be impartial and may not be affiliated with the Utah High
 86 School Activities Association, including school administrators.

87 (c) The panel shall consider and decide each appeal filed as expeditiously as feasible.

88 (d) On appeal, the panel may:

89 (i) affirm the decision of the Utah High School Activities Association;

(ii) modify the decision of the Utah High School Activities Association;

(iii) return the case to the Utah High School Activities Association for further action as directed; or

(iv) reverse the findings, conclusions, and decision of the Utah High School Activities Association.

(e) The panel shall set aside the Utah High School Activities Association action if it is found to be:

(i) unreasonable, unjust, arbitrary, capricious, or an abuse of discretion;

(ii) contrary to constitutional right, power, privilege, or immunity;

(iii) in excess of statutory jurisdiction, authority, or limitations;

(iv) not in compliance with procedure required by law, including rules, policies, and bylaws;

(v) based upon a clearly erroneous interpretation or application of the law; or

(vi) unsupported by substantial evidence.

(4) An adverse decision of an appeals panel may be appealed to the full board.

Section 3. **Effective date.**

This bill takes effect on July 1, 2004.

Legislative Review Note
as of 2-5-04 3:24 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill provide for an appeals panel appointed by the State Board of Education to hear appeals on decisions made by the Utah High School Activities Association in relation to guidelines established in the bill. Per diem and expenses for this appeals panel are estimated at \$13,200.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
Uniform School Fund	\$13,200	\$13,200	\$0	\$0
TOTAL	\$13,200	\$13,200	\$0	\$0

Individual and Business Impact

No Fiscal Impact

Office of the Legislative Fiscal Analyst